

Administrative Rule Meeting
Thursday, January 21, 2010 • 1:00 p.m.
Commission Hearing Room 1025 • Tax Commission Building
210 North 1950 West • Salt Lake City, Utah

Participating:

Michael Cragun – Commissioner
D’Arcy Dixon – Commissioner
Marc B. Johnson – Commissioner

Excused:

M. Bruce Johnson – Commission Chair

Commission Staff Present:

Cheryl Lee, Commission Executive Secretary

Note: A list of others present, a copy of related materials and an audio recording of the meeting can be obtained from the Office of the Commission at 801-297-3900.

1. Commission Business

1.1 Call to Order

Commissioner Cragun called the meeting to order at 1:00 p.m. and excused Commission Chair, Bruce Johnson from the meeting.

1.2 Approval of Minutes

Commissioner Cragun held approval of the rule minutes for December 7, 2009 and December 16, 2009 until a future meeting.

1.3 Other

Commissioner Cragun stated he has found no law that requires public bodies to follow Roberts Rules of Order in meetings. As such the Commission will be following the Utah State Legislature’s example, allowing for a motion followed by a vote on the motion without a second.

2. Proposed Rule Amendments

2.1 R861-1A-43 Electronic Meetings Pursuant to Utah Code Ann. Section 52-4-207.

2.2 R865-9I-17 Time for Filing Withholding Tax Returns and Payment of Withholding Taxes Pursuant to Utah Code ann. Sections 59-10-406.

COMMISSION COMMENT: Commissioner Dixon stated **Rule R861-1A-43 Electronic Meetings** allows interested parties to listen to or participate in a meeting via telephone. Those who call in would not bear the cost of the call. The cost to the Tax Commission could be \$500 or more per meeting. The rule is necessary if the Commission selects to have this form of electronic meeting.

MOTION: Commissioner Dixon moved the rules as posted be approved. The motion passed unanimously.

3. Preliminary public input on draft commission amendment to Rule R884-24P-62 Valuation of State Assessed Unitary Properties Pursuant to Utah Code ann. Section 52-2-201 addressing airline valuations.

Commissioner Cragun as an introduction to the agenda item shared that the Utah Legislature in Utah Code Section 52-2-201 established a method for valuing airlines that is effective until the December 31, 2010. The purpose of the legislation was to afford time for the Tax Commission to draft a rule, receive public input and adopt a final rule for valuing airlines after December 31, 2010. The purpose of this meeting is to receive preliminary public input on a proposed draft rule. This meeting is not to receive final public comment on a rule. Commissioner Cragun opened the floor to public comment.

PUBLIC COMMENT: Mr. Tim Bodily, Assistant Attorney General, Utah Attorney General's Office, on behalf of the Property Tax Division of the State Tax Commission, stated the Property Tax Division is comfortable it can implement the proposed rule with one minor change. The Division suggest in paragraph D subsection three the words "*or other appropriate methodology*" be added to accommodate appraisal of non-flight equipment. The Division believes the rule adheres to the fair market and uniformity requirements of the Constitution, which can sometimes be in conflict.

COMMISSION COMMENT: Commissioner M. Johnson asked the Property Tax Division to provide at a later date examples where another appropriate methodology would be necessary.

PUBLIC COMMENT: Mr. Art Partridge, Washington County Assessor, representing the Utah Assessors Association, shared concerns with using a wholesale value when assessing airlines, as it may create an equity issue with locally assessed properties. A wholesale value is a level of trade that is not available for locally assessed properties. He believes a Utah Supreme Court decision prohibits the use of wholesale levels of trade for valuation of property.

PUBLIC COMMENT: Mr. Lee Gardner, Salt Lake County Assessor said he agreed with the points expressed by Mr. Partridge. He stated the Property Tax Division's proposed amendment is too broad and suggested adding the word "appraisal" so it reads "*other appropriate appraisal methodology*".

PUBLIC COMMENT: Mr. Gary Thorup, with the law firm Holmes, Roberts and Owens, said he was representing and speaking on behalf of various airlines and members of the Air Transport Association, including American Airlines, Continental Airlines,

Delta Airlines, FedEx, JetBlue Airways, Southwest Airlines, United Airlines and UPS. He stated representatives from Delta Airlines and Southwest Airlines regretted they were unable to attend the meeting. He said the airlines he represents request the Commission consider the following in drafting and adopting a rule: a rule that is a reasonable reflection of fair market value; easily administered; and leads to a reduction in the number of airline appeals. The industry would like to participate in a roundtable dialog with the Commission and other players. The dialogue should include discussions on whether price guides should be used, and if so, in what form and in what way in a valuation process.

COMMISSION COMMENT: Commissioner Dixon stated it has always been the intent of the Commission to seek initial input on a draft rule and then implement a working group. The purpose of this meeting is to receive preliminary input.

COMMISSION COMMENT: Commissioner Marc Johnson asked if there was any reason why the commission should not implement a working group to dialogue on the proposed rule.

PUBLIC COMMENT: Mr. Tim Bodily, Attorney General, representing the Property Tax Division said his only concern would be if the working group meetings strayed into ex parte communications in connection with airline valuation appeals currently pending before the Commission.

Commissioner Cragun, asked the Commission Executive Secretary to pass around a sign up sheet for the working group.

Other Items/Adjourn

Commissioner Marc Johnson moved to adjourn.

Commissioner Michael Cragun adjourned the meeting at 1:54 p.m.

Approved:

Attested:
Cheryl Lee
Executive Secretary
Utah State Tax Commission